

STATE OF HAWAII  
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES  
INFORMATION AND COMMUNICATION SERVICES DIVISION

HONOLULU, HAWAII

Legal Ad Date: Wednesday December 10, 2014

INVITATION FOR BIDS

IFB-15-001

SEALED BIDS

FOR  
GUARANTEED COMPREHENSIVE ROUTINE AND EMERGENCY MAINTENANCE SERVICE  
OF  
TELECOMMUNICATIONS AIR CONDITIONING EQUIPMENT AND SYSTEMS

will be received up to and opened at 2:00 PM (HST)

on

Wednesday February 4, 2015

in the Information and Communication Services Division (ICSD) Kalanimoku Building, 1151 Punchbowl Street, Room B-10, Honolulu, HI 96813.

Technical questions relating to this bid solicitation shall be directed to Vince Krog at telephone (808) 586-1930 x625, facsimile (808) 586-1962, or e-mail:  
[vincent.e.krog@hawaii.gov](mailto:vincent.e.krog@hawaii.gov)

Procurement questions relating to this bid solicitation shall be directed to Sharon Wong at telephone (808) 586-1920 x309, facsimile (808) 586-1922, or e-mail:  
[sharon.n.wong@hawaii.gov](mailto:sharon.n.wong@hawaii.gov).

  
\_\_\_\_\_  
Keone Kali, Chief Information Officer

GUARANTEED COMPREHENSIVE ROUTINE AND EMERGENCY MAINTENANCE SERVICE OF  
TELECOMMUNICATIONS AIR CONDITIONING EQUIPMENT AND SYSTEMS  
IFB-15-001

Chief Information Officer  
Office of Information Management and Technology  
Department of Accounting and General Services, Information and Communication Services Division  
State of Hawaii  
Honolulu, Hawaii 96813

Dear Sir:

The undersigned has carefully read and understands the terms and conditions specified in the Specifications, Special Provisions, and in the General Conditions, Form AG-008 103D (Rev. 10/17/13) attached to IFB-15-001; and hereby submits the following offer to perform the work specified herein, all in accordance with the true intent and meaning thereof.

The undersigned further understands and agrees that by submitting this offer, 1) he/she is declaring his/her offer is not in violation of Chapter 84, Hawaii Revised Statutes, concerning prohibited State contracts, and 2) he/she is certifying that the price(s) submitted was (were) independently arrived at without collusion.

Date: \_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Fax No.: \_\_\_\_\_  
e-mail Address: \_\_\_\_\_

Respectfully submitted,

\_\_\_\_\_  
Exact Legal Name of Offeror

Payment address, if other than street  
address at right:

\_\_\_\_\_  
Authorized Signature (Original)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Hawaii General Excise Tax Lic. I.D. No.:

\_\_\_\_\_  
Street Address  
City, State, Zip Code

\_\_\_\_\_  
Social Security or Federal I.D. No.:

If Offeror shown above is a "dba" or a "division" of a corporation, furnish the exact legal name of the corporation under which the contract, if awarded, will be executed:

\_\_\_\_\_  
Offeror is: \_\_\_\_ Individual \_\_\_\_ Partnership \_\_\_\_ Corporation \_\_\_\_ Joint Venture \_\_\_\_ Other  
(specify)

State of incorporation:    Hawaii \_\_\_\_\_    \*Other \_\_\_\_\_  
(Specify jurisdiction)

\*If "other", is corporate seal available in Hawaii? \_\_\_\_ Yes    \_\_\_\_ No

The following bid (Page OF-2) is hereby submitted for the Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems:

**ISLAND OF KAUAI:**

**LIHUE SOB ROOF**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 1A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 1B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 1C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**LIHUE SOB BASEMENT**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 2A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 2B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 2C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**MT. KILOHANA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 3A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 3B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 3C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**TOTAL ISLAND OF KAUAI:**

(1A + 1B + 1C + 2A + 2B + 2C + 3A + 3B + 3C) \$ \_\_\_\_\_

**BID PRICES LISTED SHALL BE HELD FIRM UNTIL March 1, 2015**

OFFEROR: \_\_\_\_\_

The following bid (Page OF-3) is hereby submitted for the Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems:

**ISLAND OF OAHU:**

**MT. KAALA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 4A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 4B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 4C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**ROUND TOP PACKAGE**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 5A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 5B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 5C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**ROUND TOP WALL MOUNT**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 6A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 6B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 6C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)  
(Maintenance, and payment, for wall mount units will commence November 1, 2015. Monthly amounts are still to be added in SUM.)

**LAK SOB ROOF**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 7A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 7B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 7C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**KOKO HEAD**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 8A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 8B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 8C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**WAIMANALO RIDGE**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$ \_\_\_\_\_ X 12 Months = 9A) \$ \_\_\_\_\_
- B) Bid Price/Event for single Emergency Callout 9B) \$ \_\_\_\_\_  
(as described herein)
- C) Extra Hourly Rate Bid Price for Emergency Callout 9C) \$ \_\_\_\_\_  
(Each Hour beyond 2 hrs)

**TOTAL ISLAND OF OAHU:**

(4A + 4B + 4C + 5A + 5B + 5C + 6A + 6B + 6C + 7A + 7B + 7C + 8A + 8B + 8C + 9A + 9B + 9C)  
\$ \_\_\_\_\_

**BID PRICES LISTED SHALL BE HELD FIRM UNTIL March 1, 2015**

OFFEROR: \_\_\_\_\_

The following bid (Page OF-4) is hereby submitted for the Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems:

**ISLAND OF LANAI:**

**PUU KILEA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 10A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 10B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 10C) \$\_\_\_\_\_

**TOTAL ISLAND OF LANAI :** (10A + 10B + 10C) \$\_\_\_\_\_

**ISLAND OF MOLOKAI:**

**PUU NANA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 11A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 11B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 11C) \$\_\_\_\_\_

**TOTAL ISLAND OF MOLOKAI:** (11A + 11B + 11C) \$\_\_\_\_\_

**ISLAND OF MAUI:**

**HALEAKALA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 12A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 12B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 12C) \$\_\_\_\_\_

**WAILUKU SOB**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 13A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 13B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 13C) \$\_\_\_\_\_

**TOTAL ISLAND OF MAUI :** (12A + 12B + 12C + 13A + 13B + 13C) \$\_\_\_\_\_

**BID PRICES LISTED SHALL BE HELD FIRM UNTIL March 1, 2015**

OFFEROR: \_\_\_\_\_

The following bid (Page OF-5) is hereby submitted for the Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems:

**ISLAND OF HAWAII:**

**KAHUA RANCH**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 14A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 14B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 14C) \$\_\_\_\_\_

**HUMUULA**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 15A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 15B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 15C) \$\_\_\_\_\_

**KAUPULEHU**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 16A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 16B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 16C) \$\_\_\_\_\_

**HILO SOB**

- A) Bid Price for Routine Monthly Maintenance (per Month) \$\_\_\_\_\_ X 12 Months = 17A) \$\_\_\_\_\_
- B) Bid **Price/Event** for single Emergency Callout (as described herein) 17B) \$\_\_\_\_\_
- C) **Extra Hourly Rate** Bid Price for Emergency Callout (Each Hour beyond 2 hrs) 17C) \$\_\_\_\_\_

**TOTAL ISLAND OF HAWAII:**

(14A + 14B + 14C + 15A + 15B + 15C + 16A + 16B + 16C + 17A + 17B + 17C) \$\_\_\_\_\_

**BID PRICES LISTED SHALL BE HELD FIRM UNTIL March 1, 2015**

OFFEROR: \_\_\_\_\_

INSURANCE COVERAGE (if applicable)

	<u>Carrier</u>	<u>Policy No.</u>
1. Commercial General Liability	_____	_____
2. Worker's Compensation	_____	_____
3. Temporary Disability	_____	_____
4. Prepaid Health Care	_____	_____
5. Automobile Insurance	_____	_____

Offeror shall list below the names and contact information of three (3) companies or government agencies (other than the Information and Communications Services Division) in the State of Hawaii for whom it has provided or is currently providing services similar to those requested herein:

<u>Name</u>	<u>Address</u>	<u>Contact Person</u>	<u>Telephone No.</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____

Offeror shall list below the State of Hawaii Department of Commerce and Consumer Affairs (DCCA) Air Conditioning Contractor's License number and attach a copy of the license to this form:

\_\_\_\_\_

OFFEROR: \_\_\_\_\_

## SPECIFICATIONS

### 1.0 INTRODUCTION

The Information and Communication Services Division (ICSD), Department of Accounting and General Services (DAGS), of the State of Hawaii, owns and operates radio facilities located statewide at remote sites and at State offices buildings. ICSD's radio facilities support mission critical microwave radio systems (including the **HAWAII Wide Area Integrated Information Access Network (HAWAIIAN)** digital microwave, and the shared State of Hawaii – US Coast Guard ANUENUE Communications System), and land mobile radio systems (including the Statewide Shared Blended radio system). The dedicated air conditioning equipment and systems that provide a controlled cool and dry environment for these radio facilities must be maintained and kept in continuous operation to allow for the uninterrupted operation of microwave and land mobile radio equipment, government radio and fiber optic network equipment, and other telecommunications systems located within the radio facilities that are vital to State government operations.

### 2.0 SITE LOCATIONS AND EQUIPMENT

Guaranteed routine and emergency maintenance services to be bid will be performed at the following locations on the equipment listed below. Offerors shall maintain the equipment and related control and monitoring systems that provide air conditioning and ventilation at the sites listed including, but not limited to: external controllers, sensors, thermostats, low voltage control wiring, drainage sump pumps and sump drainage hoses, unit disconnect switches, and/or low voltage telemetry wiring connected to or associated with the air conditioning equipment and exhaust fan units listed herein. Responsibility for telemetry wiring ends at the external terminal or punch block demarcation point. Maintenance services to be bid also include the routine replacement of all replaceable filters. Maintenance services performed by the Offeror shall include the replenishment (topping off or returning levels to manufacturer's recommendation) of fluids and refrigerants but do not include the replacement of refrigerants lost due to a failure that causes the loss of more than half of the normal amount of refrigerant in the failed unit. In the event where more than half of the normal amount of refrigerant is needed, this would exceed maintenance expectations and would be billable, per unit used, as a repair. Maintenance services provided are limited to State-owned systems and do not include air conditioning systems that serve the City and County of Honolulu spaces at the Koko Head radio facility. Maintenance services do not include maintenance of microwave radio waveguide air dryers or dehydrators, maintenance of standby generator fan systems, maintenance of dry wells, or the replacement of units that have failed beyond repair or can no longer be maintained due to the unavailability of replacement parts.

Where listed, or found, the CommStat 3 Marvair Controller is also to be maintained and its temperature reading verified to be accurate. At all other sites, the controlling unit, information about which may not be readily available or the unit may have been recently changed, is to be maintained and adjusted as needed.

Responsibility for maintaining the air conditioning systems is NOT limited to the items listed below. Inventory may change during the term of the contract and/or any extensions. **The following list is to allow bidders to approximate the work load at each site of interest.** Bidders are **strongly** encouraged to attend the pre-bid site walks to fully inventory the equipment for which they will be responsible should they be the winning bidder. ICSD is under no obligation to provide any more accurate list than what follows to any bidder. Furthermore, **ICSD is not obligated to answer any questions submitted by bidders who elect not to attend site walks.**



## 2.1 Island of Kauai:

Lihue State Office Building (SOB)  
3060 Eiwa Street  
Lihue, HI 96766.

Basement Telecommunications Equipment Room:

Two (2) Fujitsu Ductless Split System Model AOU24RLX  
(installed ~2010)

Roof Top Radio Room:

One (1) Panasonic Wall Unit model CW806TU  
(installed July 1995)

### Mt. Kilohana radio facility

Located west (mauka) of the agricultural fields above Lihue several miles past the end of Ehiku Road in Lihue, HI. **Four-wheel drive required for access.**

One (1) Marvair ComPac1 Vertical Wall Mount Air Conditioner  
Model AVP60ACA05NKR-5000  
(installed around April 2004)

One (1) Marvair ComPac1 Vertical Wall Mount Air Conditioner  
Model AVP60ACA05NKR-5000  
(installed around October 2006)

One (1) CommStat 3 Marvair Controller p# S/04581

Three (3) Carrier Wall Mount Units Model YCB-243E  
(installed around Aug 1996)  
[not to be maintained, listed for reference]

## 2.2 Island of Oahu:

### Mt. Kaala Air Force Station (AFS) radio facility

Seven-mile long access road off Dillingham Highway is 1 mile past Waialua High School. Several buildings are at the summit and there are areas where you shall not drive.

Offerors are strongly recommended to attend the pre-bid site visit to this facility. **Four-wheel drive required for access.** Access restricted to pre-bid visitors and employees that have been granted access by the Air National Guard and the FAA.

Second Floor Radio Equipment Room

Two (2) Carrier Package Units Model 50GS-042-3-A  
(installed around April 2003)

First Floor Battery Room

Two (2) Automatic exhaust fans

### Round Top (three buildings) radio facility

Within Puu Ualakaa State Park at 3270 Round Top Drive, Honolulu, HI 96822.

ICSD Microwave Building:

Two (2) Marvair Model AVPA60ACA100CKRU-SS-A2-500-VAR  
(installed around May 2014) **[Maintenance to begin November, 2015]**

One (1) CommStat 3 Marvair Controller p# S/04581

ICSD Rectifier Building:

One (1) Carrier Package Unit Model 50SS-048-3AA  
(installed around Oct 2000)

Warning: roof top offers limited work space. Offeror responsible to ensure employees are climb certified and are wearing appropriate protective climb gear.

ICSD Power Room (Part of Generator Building):

Two (2) Marvair Model AVPA60ACA100CKRU-SS-A2-500-VAR

- One (1) (installed around May 2014) **[Maintenance to begin November, 2015]**  
CommStat 3 Marvair Controller p# S/04581

Leiopapa A Kamehameha LAK SOB (a.k.a State Office Tower or SOT)  
235 South Beretania St., Honolulu, HI 96813

Roof Top Radio Equipment Room

- Two (2) Mitsubishi Mr. Slim Ductless Split System Air Conditioners, each with  
22,600 btu/hr capacity. Model PU24EK2 condensing unit and PK24  
indoor unit  
(installed around March 2005).

Koko Head Radio Facility

7501 Kalanianaʻole Highway, Honolulu, HI 96825. Located within the Hanauma  
Bay Nature Preserve near the end of the hill top access road.

ICSD Microwave Room:

- Two (2) Marvair ComPac1 Vertical Wall Mount Air Conditioners  
model AVP60ACA05NKRU-5000  
(installed around May 2006)  
One (1) Automatic exhaust fan (Rectifier room)

Waimanalo Ridge

At the end of a private 1.1 mile long paved access driveway which starts at the upper  
end of Kamehame Drive.

ICSD Microwave Building:

- One (1) Carrier Package Outdoor Unit Model 50GS-036---511AD  
Serial #2105G31396  
(installation date unknown)

## 2.3 Island of Lanai:

Puu Kilea

Located in the forest above Lanai City, approximately 3 miles  
on Munro Trail past the end of the paved section of the trail.

**Four-wheel drive required for access.**

Radio Room

- One (1) MarvAir ComPac1 Model AVP36ACA05NKR-5000GI  
(installed around Dec 2002)  
One (1) MarvAir ComPac1 Model AVP60ACA05NKRU-5000  
(installed around Oct 2004)  
One (1) CommStat 3 Marvair Controller p# S/04581

Battery Rectifier Room

- Two (2) Marvair Model AVPA24ACA04CKRUX-SS-500-VAR  
Right Side Equipment Room  
(installed May 2010)  
One (1) Automatic exhaust fan (battery room)

## 2.4 Island of Molokai:

Puu Nana

Located about 5 miles west of the Molokai Airport off Maunaloa Road, State Route 460.  
A ½ mile dirt access trail leads south to the facility. This remotely located radio facility  
does not have a street address. **Four-wheel drive required for access.**

- Two (2) Marvair ComPac1 Vertical Wall Mount Air Conditioners  
Model AVP60ACC09NKRU-5000 (installed around Jan 2007)

- One (1) Automatic exhaust fan (Rectifier room)
- One (1) CommStat 3 Marvair Controller p# S/04581

## 2.5 Island of Maui:

### Haleakala

Located in the saddle area of the summit of Haleakala.

- Two (2) Carrier High Efficiency Package Units  
Model 50EE-036-330 (installed around 1989)
- One (1) Marvair AVPA48ACA100CRU  
(installed in year 2014)
- One (1) Automatic exhaust fan (battery room)

### Wailuku SOB, Room 426

54 High Street

Wailuku, HI 96793

- One (1) Carrier Split Unit  
Model 38HDC-036-310 (installed approximately May 1997)
- Two (2) Marvair ComPac1 Vertical Wall Mount Air Conditioners  
Model AVP36ACA05NKRU-5000  
(installed approximately May 2004 and Feb 2005)

## 2.6 Island of Hawaii:

### Kahua Ranch

Located on the property of Kahua Ranch, Ltd., on a ranch road about one mile east of the Kohala Mountain Road (State Route 250). The ranch driveway is about 11 miles north and west of Waimea and 7.5 miles southeast of Hawi.

- Two (2) Marvair ComPac1 Vertical Wall Mount Air Conditioners  
Model AVP60ACC09NKRU-5000 (installed around Apr 2005)
- One (1) Automatic exhaust fan (Rectifier room)
- One (1) CommStat 3 Marvair Controller p# S/04581

### Humuula

Located on the south slope of Mauna Kea, approximately one mile West of the Mauna Kea access road (turnoff is to the left just uphill from the Mauna Kea Information sign). **Four-wheel drive required for access.**

#### Microwave Room

- Two (2) Marvair ComPac II Model AVPA24ACA-060CKRU-SS-500-VAR  
(installed within the last 3 years)

#### Battery Room

- One (1) Automatic exhaust fan (battery room)
- One (1) CommStat 3 Marvair Controller p# S/04581

### Kaupulehu

Located just about a mile and a half mauka of the 29-mile marker of the Mamalahoa Highway with access via a steep and rutted trail. It is located near other communication facilities. This remotely located radio facility does not have a street address. **Four-wheel drive vehicle is required for access.**

- Two (2) Marvair ComPac1 Vertical Wall Mount Air Conditioners  
Model AVPA60ACA100CKRU-SS-500-VAR  
(installed within the last 5 years)
- One (1) Automatic exhaust fan (Rectifier room)
- One (1) CommStat 3 Marvair Controller p# S/04581

Hilo State Office Building, Hawaii  
 Located at 75 Aupuni Street Hilo, HI 96720.  
 Two (2) Mitsubishi Split Unit Model PKFY-P30NKMU-E  
 Outdoor units on roof, indoor units in equipment room.

## 2.7 Pre-Bid Examination of Service Areas and Equipment

ICSD **strongly recommends that prospective Offerors visit each site** to inspect the equipment listed herein; familiarize themselves with the existing conditions of the site, equipment, and systems; the difficulty of, hazards associated with, and the requirements for access; and to understand the amount and type of work to be performed. Some sites are extremely remote and access to some requires the use of undeveloped or poorly maintained trails. **The ICSD strongly recommends that the Offeror make use of the available site walks to familiarize themselves with the necessary access procedures and routes.** The State is under no obligation to show the successful Offeror how to get to the site if they did not attend the pre-bid site walk. No additional compensation will be made due to any misunderstanding or error regarding conditions at the sites and facilities or the amount and type of work required to be performed by the Offeror. Offeror shall consider ICSD equipment and facilities to be in "as is" condition. Prospective Offerors are responsible for their travel expenses related to site visits they make for the purpose of inspecting the systems, equipment, facilities, and overall conditions.

The ICSD has scheduled **one-time-per-site inspection visits** as follows:

<u>SITE</u>	<u>DATE</u>
<b>Day 1:</b>	<b>Wednesday January 7, 2015</b>
<b>LAK SOB</b>	<b>8:00 AM</b>
Meet at Kalanimoku Basement room B10. We will then walk two blocks to 235 South Beretania St., Honolulu, HI 96813. Then immediately afterwards walk back to Kalanimoku and drive up to Round Top.	
<b>Round Top</b>	<b>10:00 AM</b>
Immediately following the LAK site walk at approximately 10AM, we will meet at the gate to radio facility within Puu Ualakaa State Park at 2760 Round Top Dr, Honolulu, HI 96822.	
<b>Waimanalo Ridge</b>	<b>12:30 PM</b>
Meet at the gate at the top of Kamehame Dr in Hawai'i Kai.	
<b>Koko Head</b>	<b>2:30 PM</b>
Meet at Hanauma Bay gate to Koko Head facility at 2:00 PM	
<b>Day 2:</b>	<b>Thursday January 8, 2015</b>
<b>Lihue SOB</b>	<b>9:00 AM</b>
Meet at Lihue SOB, Park street level, Meet in underground parking area	
<b>Kilohana</b>	<b>11:00 AM</b>
Meet at gate on Ehiku St. Lihue, HI	
<b>Day 3:</b>	<b>Monday January 12, 2015</b>
<b>Wailuku SOB</b>	<b>8:30 AM</b>
Meet at Wailuku SOB, 54 South High St, Wailuku, HI	

**Haleakala, Maui****10:00 AM**

Meet at Krispy Kreme, 433 Kele Street, Kahului, HI

**Day 4:**Tuesday January 13, 2015**Puu Kilea, Lanai****7:30 AM**Meet at the Blue Ginger Cafe, 409 7<sup>th</sup> St., Lanai City, HI**Day 5:**Wednesday January 14, 2015**Puu Nana, Molokai****8:30 AM**

Meet at DAGS Maint. Base yard, 45 Makaena Pl, Kaunakakai, Hawaii 96748

Turn left on Ala Malama, and then left again on Makaena Pl.

**Day 6:**Thursday January 15, 2015**Hilo SOB****8:00 AM**

Meet at Hilo SOB, 75 Aupuni Street, Hilo, HI.

**Humuula****8:00 AM**

Meet at Hilo SOB, 75 Aupuni Street, Hilo, HI. Immediately following Hilo SOB, we will drive out to Humuula.

**Day 7:**Tuesday January 20, 2015**Kaupulehu, Hawaii****9:00 AM**

Meet at the Pine Tree Cafe, 73-4040 Hulikoa Drive, Kailua-Kona, HI

**Kahua Ranch****1:00 PM**

Meet at Waimea McDonalds, 65-1154 Mamalahoa Hwy, Waimea, HI

**Day 8:**Wednesday January 21, 2015**Kaala****9:00 AM**

Meet at the FAA gate to the access road off Dillingham Highway 1 mile past Waialua High School.

**Notify ICSD if you intend to attend the inspection visits no later than 2:00 PM Tuesday December 23, 2014. If not notified by any vendor, ICSD staff is not required to attend a site inspection visit and no access will be possible.**

The State and the ICSD will **not be responsible for the Offeror's inability to bid** due to either: 1) the unavailability of ICSD personnel to arrange and/or accompany Offerors on site visits, other than the dates and times for the official site inspection visits described above; or 2) inability of Offeror's representative to be present for any of the site inspection visits when they are scheduled.

Visitors to Mt. Kaala will need to provide their legal name and last four digits of their Social Security numbers at least two weeks in advance of the anticipated visit to be screened and be approved for access by the Air National Guard. This applies to every employee who plans to attend. Persons whose names are not on the access list will not be granted entry. **Access to Mt. Kaala is by four-wheel drive vehicle ONLY.** The narrow one-lane road has a steep grade and many blind curves. The Offeror must follow posted road rules. The Offeror must possess and produce picture identification acceptable to the Air National Guard personnel at Mt. Kaala. **Provide required information along with confirmation of intent to attend no later than COB Wednesday January 7, 2015.**

Offerors are not required to visit the facilities to submit a bid but are **strongly recommended** to do so.

Offerors are **not permitted** to visit the ICSD sites and facilities **without an ICSD escort**.

***Submission of a bid shall be evidence that the Offeror has familiarized himself/herself with the various equipment and site locations; understands and shall comply with the specifications if awarded the contract.***

***No additional compensation shall be made because of any misunderstanding regarding the conditions at the sites, or the amount and type of work to be performed.***

## **2.8 Offeror Questions**

Questions regarding the bid specification must be submitted to the ICSD no later than COB Friday January 23, 2015 which follows the final pre-bid site walk and is twelve days prior to the bid opening date. Although responses via electronic mail are acceptable, the State of Hawaii is not responsible should email be compromised, delayed, rejected, or discarded for any reason (e.g. for size in excess of 10 Mb). A written submission is preferred.

## **3.0 SERVICES TO BE BID**

All labor, personnel travel costs and per diem; parts (in accordance with the terms described herein), materials, supplies, and consumables; any additional tools, equipment, and safety equipment required; costs for storage, transportation, shipping, and supervision; costs for commercial general liability insurance as required herein by the State, and taxes shall be included in the bid price offered to accomplish:

Guaranteed Comprehensive **Routine Monthly Maintenance** Service of  
Telecommunications Air Conditioning Equipment and Systems  
Guaranteed Comprehensive Unscheduled **Emergency Callout** Maintenance Service of  
Telecommunications Air Conditioning Equipment and Systems  
**Extra Hourly Rate** for Time Beyond 2 hours of Unscheduled Emergency Callout  
Maintenance Service of Telecommunications Air Conditioning Equipment and  
Systems

In the sections to follow, detailed descriptions can be found regarding the items in this section described in general terms. The detailed descriptions in Sections 3.1.1 – 3.2.1 take precedence over the short descriptions in this section (3.0).

**“Routine Maintenance”** refers to monthly maintenance activities that include, but are not limited to, performing a thorough servicing of all integral parts, oiling and greasing, adjusting, protective spot painting to arrest or prevent corrosion.

**“Emergency Maintenance”** refers to maintenance activities that are the result of a request by the State to respond to an emergency situation. It includes all mobilization and travel costs as well as the **first two hours** of labor performed while on site. Failure to provide the expedited response to a request for emergency maintenance within the time specified in Section 3.2, will result in cancellation of the contract on first event.

**“Extra Hourly Rate”** is the cost per hour per employee for on-site work done during an Emergency Maintenance activity that occurs **after the first two hours** of work have been performed on-site in accordance with the Emergency Maintenance definition above. Cost per

hour shall be the hourly rate charged regardless of whether such time is charged as straight or overtime by the employee.

### **3.1 Routine Monthly Maintenance Service of Telecommunications Air Conditioning Equipment and Systems**

#### **3.1.1 Description of Work**

The guaranteed comprehensive routine monthly maintenance service of telecommunications air conditioning equipment and systems shall consist of thorough maintenance work and inspection in accordance with the best commercial practices governing the maintenance of air conditioning systems. Such service shall include regularly scheduled inspection and proactive maintenance tasks consisting of, but not limited to, performing a thorough servicing of all integral parts, oiling and greasing, adjusting, protective spot painting to arrest or prevent corrosion.

All labor, parts (in accordance with the terms described herein), supplies, lubricants, fluids, refrigerants, and materials required to keep units in continuous operating condition shall be included in the contract price.

All routine monthly maintenance tasks described herein shall be performed between the hours of 7:45 a.m. to 4:30 p.m., Monday through Friday, except State Holidays. Routine monthly maintenance tasks should be performed the same week of each month or as coordinated by the ICSD Technical Representative.

#### **3.1.2 Parts**

All systems, equipment, parts, materials, filters, refrigerants, and fluids furnished under this contract shall be the latest improved models in current production, as offered through commercial trade, and shall be new and as approved for use by the Original Equipment Manufacturer (OEM). Used, shopworn, demonstrator, prototype, reconditioned or discontinued models or materials are not acceptable and shall not be used. The warranty period for Offeror provided systems, equipment, parts, materials, and filters shall be for a period of one year after completion of the installation or within the manufacturer's warranty, whichever is the later period. In the event that the new systems, equipment, parts, materials, and/or filters installed by the Offeror fails and is under warranty, the Offeror will be responsible for replacement and contacting the company for warranty repair. The State of Hawaii will not be responsible for any additional costs to repair systems, equipment, parts, materials, or filters provided by the Offeror that are still under warranty. The Offeror is responsible for all liability of warranted repair.

Maintenance service shall also include the replacement of any part or parts needed to keep the units in continuous operating condition, unless the cost of the part or parts required to repair any one outage event exceeds \$500 (five hundred dollars). In the event that the cost of the part, parts, or refrigerants (the total cost of the parts provided shall include costs for transportation, storage, and/or shipping of those parts) required to repair any one outage exceeds \$500 (five hundred dollars), the Offeror shall submit a quote to the ICSD Technical Representative. The Offeror, upon receipt of a valid State of Hawaii Purchase Order shall effect the repair and invoice the State for the cost of the repair less a \$500 (five hundred dollars) deductible for cost of the part or parts (the total cost of the parts provided shall include costs for transportation, storage, and/or shipping of those parts).

If the Offeror uses an existing State-owned pre-positioned spare part, the Offeror shall replace such part in accordance with the terms listed above.

### 3.1.3 Monthly Inspection and Maintenance Service Shall Include, But Not Be Limited To, the Following:

Record room temperature (ambient) and verify thermostat set at 68° F.

Check refrigerant levels and refill as necessary.

Check condition of condenser coils and coil fins and clean if necessary.

Check condition of evaporator coils and coil fins and clean if necessary.

Clean all exterior filter screens. Repair or replace damaged exterior filter screens.

Remove any and all dirt and debris that has accumulated in, on, or around the outdoor components and ductwork.

Inspect exterior ductwork for loose hardware, failing or broken seams or weatherproofing between ductwork sections and the building wall and patch or repair as necessary.

Ensure that all air filters are clean. The Offeror shall replace filters as follows:

- **Annually, within ninety days of the contract start date or renewal date; and as necessary.**
- **The Offeror shall mark filters with the date that they are installed.**

Check compressor oil and refill or replace as necessary.

Check for loose electrical connections and tighten all electrical connections that are loose. Inspect all wiring for chafing, burning, deteriorated insulation, broken electrical connections and repair when found. Inspect unit disconnect, compressor and starter contactors for contact surface condition and free movement. Document, photograph, and report as part of the Monthly Report any rotting, rusting, or otherwise dangerous electrical connection, electrical conduit or junction box hardware problems.

Inspect belts and adjust tension if necessary. Replace if worn.

Inspect and clean blower wheel, housing, and motors.

Inspect condenser fans and report deteriorated blade conditions or clearance problems.

Lubricate condenser fan and motor.

Check refrigerant suction and discharge lines for proper operating temperatures and pressures. Record temperature and pressure.

Adjust and calibrate all operating and safety controls.

Check and record compressor motor voltage and amperage.

Check refrigerant moisture indicator.

Check for refrigerant or oil leaks.

Check for abnormal noise and vibration.

Inspect and clean condensate drain, drain pans, and drain lines. Record and report any indication of dry well or sump failure.

Prevent rust from developing on air conditioning units, mounts, housing, and ducts. Clean and patch paint if necessary.

Record the status of the site spare parts (State-owned pre-positioned spare parts) inventory.

Notify the ICSD Technical Representative immediately of any problems or any other improper conditions so that corrective action can be performed while maintenance personnel are still at the site.



### **3.1.4 Monthly Inspection and Maintenance Service Shall Include the Submittal of Monthly Reports**

The guaranteed comprehensive routine monthly maintenance service of telecommunications air conditioning equipment and systems shall include the submittal of a separate written "Record of Air Conditioning Service for State of Hawaii, ICSD" for each unit maintained for each monthly visit. A sample monthly "Record of Air Conditioning Service for State of Hawaii, ICSD" is attached as Appendix 1. The unit service record(s) are to be submitted with the Consolidated Billing statement

### **3.1.5 Monthly Inspection and Maintenance Service Shall Include the Submittal of a Contract Annual Report**

The guaranteed comprehensive routine monthly maintenance service of telecommunications air conditioning equipment and systems shall also include the submittal of a separate written annual report for each site maintained. Both paper and electronic copies of the site annual report(s) shall be completed and submitted to the ICSD Technical Representative prior to the contract anniversary date. The site annual report shall include, but not be limited to:

Captioned photographs of each air conditioning equipment (or system) to include its sensor units, controls and indicators, unit data plate and/or model identification plate, and ductwork (if any) at each site.

A list of equipment settings, especially those relating to turn-on or restart delay times.

A summary report of any major component replacement(s) done at the site during the contract period.

A recommendation of spare parts that should be acquired by the State and stored on-site in order to facilitate rapid repair by eliminating the travel time necessary to revisit distant or hard to access sites once a problem has been identified. Note: Offeror will be held responsible for replacing parts missing from inventory after the start of the contract.

An equipment status survey that provides an estimate of remaining usable equipment lifetime, recommended timetable for equipment replacement, and (if replacement is recommended) suggestions for the size and type of equipment to be used for replacement.

Note that submission of a Contract Annual Report is required for contract renewal (see below).

## **3.2 Unscheduled Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems**

### **3.2.1 Description of Work**

The Offeror shall provide a fixed price per event for unscheduled emergency maintenance service of telecommunications air conditioning and equipment for each site. The price provided shall include costs for travel time plus **two hours on-site** of after-hours and/or overtime (as required) labor, personnel travel costs and per diem (if any) to provide unscheduled emergency maintenance service of telecommunications air conditioning equipment. A separate price shall be provided for each site. The Offeror shall dispatch personnel to provide the unscheduled emergency maintenance upon the request of the ICSD Technical Representative or his designee (typically the ICSD Assistance Center).

The Offeror shall provide emergency maintenance and repair response services on an on-call basis for the duration of the contract. The Offeror shall provide the State with Hawai'i based telephone support that includes a 24-hour contact number (answering service or pager) and shall acknowledge requests for emergency services within two (2) hours from the time of the request. The Offeror shall provide a contact number and response 24 hours a day, 7 days a week, including all weekend days and all holidays. Emergency maintenance and repair response shall commence within the following time limits after initial notification:

<b>Lihue SOB</b>	Within six (6) hours of initial notification.
<b>Mt. Kilohana</b>	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
<b>Kaala</b>	Within six (6) hours of initial notification.
<b>Round Top</b>	Within six (6) hours of initial notification.
<b>LAK SOB, Oahu</b>	Within six (6) hours of initial notification.
<b>Koko Head</b>	Within six (6) hours of initial notification.
<b>Waimanalo Ridge</b>	Within six (6) hours of initial notification.
<b>Puu Kilea, Lanai</b>	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
<b>Puu Nana, Molokai</b>	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
<b>Haleakala, Maui</b>	Within six (6) hours of initial notification.
<b>Wailuku SOB</b>	Within six (6) hours of initial notification.
<b>Kahua Ranch</b>	If notification occurs prior to 10:00 AM, on-site response must occur that same day. If notification occurs after 10:00 AM, on-site response is expected on the morning of the following day, in no case later than Noon of the day following notification.
<b>Humuula</b>	Within six (6) hours of initial notification.
<b>Kaupulehu, Hawaii</b>	Within six (6) hours of initial notification.
<b>Hilo SOB</b>	Within six (6) hours of initial notification.

If emergency maintenance and repair services cannot commence within the required time, the Offeror shall notify the ICSD in writing as to the reason for the delay and shall provide an expected time of return to service.

When possible, the ICSD will work with the Offeror to permit maintenance, or repairs that do not impact system availability to be resolved at the Offeror's next regularly scheduled visit.

Air and ground transportation costs for Emergency Maintenance provided for Puu Nana, Molokai or Puu Kilea, Lanai shall be billed at the actual cost of the travel and the Offeror shall submit copies of the air and ground transportation billings with the invoice provided only for Emergency Maintenance for Puu Nana or Puu Kilea. All other costs for Emergency Maintenance provided for Puu Nana or Puu Kilea including, but not limited to, internal processing fees of the Offeror, shall be included in the fixed price bid for Emergency Maintenance. Air and ground transportation costs for Emergency Maintenance provided for all other sites/islands shall be included in the price bid for Emergency Maintenance.

Within five working days of performing any Emergency Maintenance activity, Offeror shall provide the ICSD a full written report. The written service report shall describe all work performed during the visit, list all parts removed, and list with part numbers and, if available, serial numbers, parts, and lubricants used. The report shall include embedded photographs to depict site and equipment conditions, broken and or replaced parts, and the final condition of the maintained units. The Offeror shall include in the Emergency Maintenance report reasons why the failure occurred and recommendations on how to prevent a reoccurrence of the emergency.

#### **4.0 GENERAL REQUIREMENTS**

##### **4.1 Workmanship**

Professional workmanship shall meet or exceed current SMACNA (Sheet Metal and Air Conditioning Contractors National Association) and ASHROE (American Society of Heating, Refrigeration and Air Conditioning Engineers) standards. Unless otherwise specified, the Offeror shall guarantee that the labor and the materials used in performance of this contract are within the specified guidelines and recommendations of the manufacturer's warranty.

##### **4.2 Personnel**

All services shall be performed by qualified and experienced journeyman technicians that are the regular full time employees of the Offeror. All technicians selected to perform work for this contract should have a minimum of five (5) years commercial heating, ventilating, and air conditioning (HVAC) experience in servicing air conditioning, electrical systems, control systems and mechanical equipment. Apprentice employees are permitted to accompany journeyman personnel to gain experience on work performed provided the Offeror assumes all apprentice related wages, costs, risks, and liabilities.

##### **4.3 Tools, Equipment, and Supplies**

The Offeror shall provide all necessary parts (in accordance with the terms described herein), materials, supplies, consumables, tools, equipment, and safety gear required. Storage of any of these items in the ICSD's facilities is prohibited without the prior written consent of the ICSD Technical Representative. The Offeror shall take full responsibility for the security and well-being of the Offeror's tools, equipment and supplies used or stored on the jobsite. The Offeror agrees to hold harmless and indemnify the State for any damage to or loss of Offeror's tools, equipment and supplies used or stored on the jobsite.

##### **4.4 Spare Parts**

The Offeror shall maintain spare parts and materials that are required for maintenance of air conditioning systems and fan assemblies. The Offeror shall be responsible for the replacement of any State-owned spare parts in accordance with the provisions of this Invitation for Bids (IFB) and the resulting contract.

#### **4.5 Safety**

The Offeror and its employees shall comply with all applicable health and safety regulations including, but not limited to, rules and regulations of the federal OSHA and the State of Hawai'i, Department of Labor and Industrial Relations (DLIR), Occupational Safety and Health Division (HIOSH).

The Contractor and its employees shall comply at all times with standards regarding work activities in and around radio transmission facilities including, but not limited to, OSHA General Industry Standard 29 CFR 1910.268 Sub-Section p. Contractor must ensure that all employees are familiar with the hazards associated with exposure to radio-frequency (RF) radiation and the precautions that must be taken when working in a "controlled" RF environment as described in FCC Rules, Part 1, Section 1.310, as the same exists or may be amended from time to time.

Alcoholic beverages, illegal drugs, fireworks, and firearms are prohibited at all facilities.

Hunting is prohibited on or near ICSD facilities or while commuting to or from working at an ICSD facility.

All ICSD radio facilities are smoke free; smoking is prohibited at all times inside any of the ICSD facilities within the fence line of the radio facility compound.

The Offeror and its employees must obey all signs and posted notices.

#### **4.6 Clean Up**

The Offeror shall keep the job sites free of debris, litter, and refuse. At the end of each workday, the Offeror shall remove from the premises the daily accumulation of waste materials or rubbish caused by his operations. Safety hazards will be immediately corrected by the Offeror. The Offeror is also responsible for ensuring that any subcontractor hired by him or his subcontractors totally cleanup the worksite at the completion of the work. If the Offeror fails to clean up at the completion of the work, the State of Hawai'i may do so and deduct the cost of such cleanup from the next invoice received by the State of Hawaii.

The Offeror shall remove and dispose of all leftover chemicals, refrigerants, lubricants, and solvents in accordance with federal, State, and local environmental regulations. The Offeror shall keep the job sites free of debris, litter, refuse, etc. The Contractor shall remove all tools, equipment, and machines from the areas upon completion of the work.

### **5.0 SPECIAL PROVISIONS**

#### **5.1 Scope**

The furnishing of Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems for ICSD, DAGS, as specified herein, shall be in accordance with these Special Provisions, Specifications, the General Conditions, and chapter 103D, Hawaii Revised Statutes, and its implementing rules.

## 5.2 Site Access and Security

The Offeror agrees to follow the ICSD's site security and access procedures as they now exist or may be amended from time to time.

Unless otherwise arranged and approved in advance with the ICSD Technical Representative, **all keys necessary for sites that require keys for access, including those on the neighbor islands, shall be picked up from and returned to the ICSD Assistance Center on Oahu.** The Assistance Center is located in the basement of the Kalanimoku Building at 1151 Punchbowl Street, Honolulu, HI 96813.

### 5.2.1 Special Access Requirements for Mt Kaala, AFS

The Offeror agrees to provide personal background information for its employees including, but not limited to, Social Security number (SSN) (last four digits of SSN is required) for those employees who need access to Mt. Kaala AFS.

Access to Mt. Kaala AFS also requires the approval of the Air National Guard and, as such, is beyond the control of the ICSD. The Offeror accepts all risks and responsibilities associated with providing personnel to work on Mt. Kaala AFS and in ensuring their ability to receive clearance from the Air National Guard.

### 5.2.2 Special Access Requirements for Haleakala

At no additional cost to the State, the Offeror shall obtain all necessary clearances and insurance and pay any fees required regarding the transit of commercial vehicles through the Haleakala National Park for any and all work and/or refueling required during the term of the contract. The State and/or the ICSD have no control over National Park Service (NPS) procedures and processes. We understand that the NPS point of contact is their Business and Revenue Program Specialist who can be contacted via telephone at (808) 572-4440 or email at [hale\\_commercial\\_manager@nps.gov](mailto:hale_commercial_manager@nps.gov). The most recent approval by the NPS for vendor transit through Haleakala National Park used NPS Form 10-114 specific to the Haleakala National Park as revised June 2012.

## 6.0 OFFEROR QUALIFICATION

### 6.1 Experience

The Offeror shall have a minimum of three (3) consecutive years of experience in the years immediately **prior to the bid opening** in the field of commercial air conditioning system installation and maintenance.

### 6.2 Contractor's License

The Offeror shall be properly licensed by the State of Hawaii Department of Commerce and Consumer Affairs (DCCA) and shall provide the DCCA Air Conditioning Contractor's License number in the space provided on the Offer Form page OF-6. A copy of the license must accompany the bid. The Offeror shall maintain this specialty contractor's license for the duration of the contract.

### 6.3 HCE Compliance

It is highly recommended that a compliance document (see Hawaii Compliance Express section 8.4 below) be submitted with the bid at the time the bid is submitted. Compliance will be verified

for all Offerors during the bid evaluation process. If not compliant at the time of bid submittal, the bidder **MUST** submit the compliance document prior to award. If no proof of compliance has been submitted by time of award, the next lowest bid from a compliant Offeror will be awarded the contract.

## **7.0 BID PREPARATION**

### **7.1 Legal Name**

The Offeror is requested to submit its offer using Offeror's exact legal name as registered with the Department of Commerce and Consumer Affairs (DCCA), if applicable; and to indicate exact legal name in the appropriate space on OFFER FORM, page OF-1. Failure to do so may delay proper execution of the contract.

The Offeror's authorized signature shall be an original signature in ink (Blue). If OFFER FORM, page OF-1, is unsigned or the affixed signature is a facsimile or a photocopy, the offer shall be automatically rejected unless accompanied by other material, containing an original signature, indicating the Offeror's intent to be bound.

### **7.2 Bid Quotation**

The bid prices shall be all inclusive and include all costs for labor, personnel travel costs and per diem; parts (in accordance with the terms described herein), materials, supplies and consumables; any additional tools, equipment and safety equipment required; costs for storage, transportation, shipping and supervision; taxes; and costs for commercial general liability insurance as required herein by the State as necessary to accomplish the guaranteed comprehensive routine and emergency maintenance service of telecommunications air conditioning equipment and systems, and optional unit repair and/or replacement as specified herein.

### **7.3 Hawaii General Excise Tax License**

The Offeror shall submit a current Hawaii General Excise Tax License I.D. number in the space provided on OFFER FORM, page OF-1, thereby attesting that the Offeror is doing business in the State, and that the Offeror will pay such taxes on all sales made to the State.

### **7.4 Responsibility of Offeror**

As shown on page OF-6, the Offeror must submit statements of compliance to the following requirements. Furthermore, the Offeror is advised that to be awarded a Contract under this solicitation, the Offeror shall, at the time the bid is submitted, furnish **proof** of compliance with the requirements of §103D-310(c), HRS:

1. Chapter 237, tax clearance;
2. Chapter 383, unemployment insurance;
3. Chapter 386, workers' compensation;
4. Chapter 392, temporary disability insurance;
5. Chapter 393, prepaid health care; and
6. Section 103D-310(c), HRS, Certificate of Good Standing (COGS) for entities doing business in the State.

### **7.5 Offer Guarantee**

A bid security deposit is NOT required for this IFB.

## **7.6 Original Proposal and Copies to be Submitted to Room B-10 of the Kalanimoku SOB**

**One (1) original and four (4) copies** shall be submitted on the forms specified in this IFB to the ICSD office located in Room B-10 of the Kalanimoku SOB, 1151 Punchbowl Street, Honolulu, HI. The original shall be clearly marked "ORIGINAL" and copies shall be clearly marked "COPY." **It is imperative that the Offeror submit only one original and the required number of copies.** The State will not provide any reimbursement for the cost of developing, presenting, submitting, or evaluating any proposal in response to this IFB.

The Offeror is encouraged to submit typewritten offers. If handwritten, it should be clearly printed. The Offeror is cautioned that illegible offers of any item(s) may be automatically rejected.

**The official bid time shall be the time indicated on the time stamp clock in the ICSD office** located in Room B-10 of the Kalanimoku SOB, 1151 Punchbowl Street, Honolulu, HI.

## **7.7 References**

The Offeror shall list on Offer Form Page OF-6 at least three references in the State of Hawaii, other than the State of Hawaii government, for whom bidder has performed routine and emergency maintenance of air conditioning equipment and systems used at telecommunications facilities and/or electrical equipment rooms that are similar in nature and volume to work specified herein. The State reserves the right to contact the references provided.

## **7.8 Insurance**

Bidder shall provide insurance information as requested on Offer Form Page OF-6.

## **7.9 Wage Certificate**

The Offeror is required to complete and submit a Wage Certificate by which the Offeror certifies that wages will be paid and work will be performed in accordance with HRS Section 103-55.5 and Chapter 104.

## **8.0 AWARD**

### **8.1 Method of Award**

Award, if any, will be made **for each island** to the responsive and responsible bidder submitting the lowest bid for that island. The Bid Score for each island equals the sum of:

The **annual** cost of the Guaranteed Comprehensive Routine Monthly Maintenance Service of Telecommunications Air Conditioning Equipment and Systems for each site on that island; and

The bid per site **per event** for Emergency After-Hours Maintenance Service of Telecommunications Air Conditioning Equipment and Systems for each site on that island; and

Price for **one (1) hour** of additional Callout Time beyond the first 2 hours of an Emergency After-Hours Callout for the Maintenance and Service of Telecommunications Air Conditioning Equipment and Systems for each site on that island;

**Bidder must bid on all items for an island to qualify for award of the contract for that island.**

Should the offer with the lowest whole island bid Total be a tie, the qualified Offeror with the lowest price bid for the sum of the monthly costs (A) of the Guaranteed Comprehensive Routine Monthly Maintenance Service of Telecommunications Air Conditioning Equipment and Systems for that island shall be awarded the contract for that island.

**Note: Wall Mount Units at Round Top are under manufacturer's maintenance until October 19, 2015. Enter bid amounts for Round Top Wall Mount units in like fashion to bid amounts for other sites and the state stipulates that billing will not begin for these units until November 1, 2015.**

## **8.2 Certifications Required Prior To Award**

**Responsibility of Lowest Responsive Bidder.** Reference §103D-310(c), HRS. A compliance document (see **Hawaii Compliance Express** below) must be submitted **prior to the State awarding the Contract.**

**Hawaii Compliance Express.** Offerors shall use the Hawaii Compliance Express (HCE) to show proof of compliance with the requirements of § 103D-310(c), HRS. The HCE allows businesses to register online through a simple wizard interface at <http://vendors.ehawaii.gov> for an annual fee payable to Hawaii Information Consortium, LLC (currently \$12.00) to acquire a "Certificate of Vendor Compliance," which provides current compliance status as of the issuance date. The "Certificate of Vendor Compliance" indicating that vendor's status is compliant with the requirements of §103D-310(c), HRS, is accepted for both contracting purposes and final payment.

**Timely Submission of all Certificates.** If a valid Certificate of Vendor Compliance is not submitted on a timely basis as determined by the Procurement Officer for award of a contract, an offer otherwise responsive and responsible may not receive the award.

**Prior to awarding contract(s),** the State will require certification of the following insurance coverage, in accordance with the requirements specified in Section 12.0:

Commercial General Liability (occurrence form); and  
Worker's Compensation/Employers Liability  
Temporary Disability  
Unemployment Insurance  
Prepaid Health Care  
Automobile Insurance

## **9.0 ACCEPTANCE OF OFFER**

Acceptance of offer, if any, will be made within sixty (60) calendar days after the opening of offers, and the prices quoted by the Offeror shall remain firm until March 31, 2015.

## **10.0 CONTRACT**

### **10.1 Contract Execution**



The State shall forward a formal contract to the successful Offeror for execution. The contract shall be signed by the successful Offeror and returned within ten (10) days after receipt of the Offeror. NO PERFORMANCE AND PAYMENT BONDS ARE REQUIRED.

## **10.2 Term of Contract**

The Offeror shall enter into a contract for furnishing Guaranteed Comprehensive Routine and Emergency Maintenance Service of Telecommunications Air Conditioning Equipment and Systems for a period of twelve (12) months from the commencement date on the Notice to Proceed. Unless terminated, the contract may be extended by mutual agreement without the necessity of rebidding for up to four (4) additional twelve month periods or portions thereof, provided that:

- A. The contract price for the extended period shall remain the same or lower; and
- B. The Offeror has submitted a Contract Annual Report in accordance with the specifications above.

If the option to extend is mutually agreed upon, the Offeror shall be required to execute a supplement to the contract.

## **10.3 Notice to Proceed (NTP)**

No work shall be undertaken by the successful Offeror prior to the commencement date specified on the Notice to Proceed. The State is not liable for any work, contract costs, expenses, loss of profits, or any damages whatsoever incurred by the successful Offeror prior to the official starting date.

## **10.4 Final Payment Requirements.**

Contractor is required to submit a compliance document for final payment on the contract.

In addition to the compliance document, an original "Certification of Compliance for Final Payment" (SPO Form-22), will be required for final payment. A copy of the Form is available at [www.spo.hawaii.gov](http://www.spo.hawaii.gov). Select "Forms for Vendors/Contractors" from under the "Quick Links" menu at the right of the webpage.

## **10.5 Technical Representative**

Technical questions relating to this bid solicitation shall be directed to Vince Krog at telephone (808) 586-1930 x625, facsimile (808) 586-1962, or e-mail: [vincent.e.krog@hawaii.gov](mailto:vincent.e.krog@hawaii.gov)

## **10.6 Contract Administrator**

Procurement questions relating to this bid solicitation shall be directed to Sharon Wong at telephone (808) 586-1920 x309, facsimile (808) 586-1922, or e-mail: [sharon.n.wong@hawaii.gov](mailto:sharon.n.wong@hawaii.gov).

## **11.0 LIABILITY INSURANCE**

NOTE: Minimum insurance requirements are different from those in prior bid specifications.

The Offeror shall maintain insurance acceptable to the State in full force and effect throughout the term of the contract. The policy or policies of insurance maintained by the Offeror shall provide the following limit(s) and coverage(s):

### Coverage Limits

Commercial General Liability (occurrence form)	Minimum bodily injury and broad form property damage combined single limits of liability of <b>\$1,000,000</b> combined single limit per occurrence for bodily injury and property damage
Workers Compensation	Minimum coverage of Statutory: \$250,000 each accident, Liability: \$100,000 disease per each employee, and \$500,000 disease policy limit
Automobile Insurance	Minimum coverage of \$1,000,000 per accident

Each insurance policy required by this contract shall contain the following clauses:

1. "The Offeror will immediately provide written notice to the contracting department or agency should any of the insurance policies evidenced on its Certificate of Insurance form be cancelled, limited in scope, or not renewed upon expiration."
2. For Commercial General Liability coverage, "The State of Hawaii is added as an additional insured as respects to operations performed for the State of Hawaii."
3. "It is agreed that any insurance maintained by the State of Hawaii will apply in excess of, and not contribute with, insurance provided by this policy."

The Offeror shall maintain the minimum insurance required in full compliance with the Hawaii Insurance Code throughout the entire term of the contract, including supplemental agreements. The policy or policies of insurance maintained by the Offeror shall provide the limits and coverages specified herein.

The Offeror shall deposit with ICSD, DAGS, State of Hawaii, on or before the effective date of the contract, certificate(s) of insurance necessary to satisfy the State that the insurance provisions of this IFB and the contract have been complied with and to keep such insurance in effect and the certificate(s) therefor on deposit with the State during the entire term of the contract, and any extensions thereof. Upon request by the State, Offeror shall furnish a copy of the policy or policies.

Failure of the Offeror to provide and keep in force such insurance shall be regarded as material default under the contract, entitling the State to exercise any or all of the remedies provided in the contract for a default of the Offeror.

The procuring of such required policy or policies of insurance shall not be construed to limit Offeror liability or to fulfill the indemnification provisions and requirements of the contract. Notwithstanding said policy or policies of insurance, the Offeror shall be obliged for the full and total amount of any damage, injury, or loss caused by negligence or neglect connected with the contract.

## **12.0 SERVICE REQUIREMENTS**

The State reserves the right to delete air conditioning system site(s) in its or their entirety from any contract. Where an individual component(s) have been replaced, said component(s) shall be made part of the contract at no additional cost to the State.

**Any adjustments to the contract shall be made through a contract modification.**

### **13.0 INSPECTION**

All work done and all materials furnished shall be subject to inspection and approval by the ICSD Technical Representative or the Technical Representative's representative so as to ascertain that the services rendered are in accordance with requirements and intentions listed herein.

### **14.0 INVOICING AND PAYMENT**

The Offeror shall submit on a monthly basis, an original and three copies of the invoice to:

Department of Accounting and General Services  
Information and Communication Services Division  
P.O. Box 119  
Honolulu, HI 96810-0119  
Attention: Fiscal Office

Payment shall be made to the Offeror at the contracted price upon certification by the State that the Contractor has satisfactorily performed the required services each month. All invoices shall reference the contract number.

A tax clearance certificate, not over two months old, with an original green certified copy stamp, or an HCE certificate of compliance must accompany the invoice for final payment on the contract.

### **15.0 LIQUIDATED DAMAGES**

Refer to Section 9 of the General Conditions, attached. Liquidated damages are fixed at the sum of FIFTY DOLLARS (\$50.00) for each and every calendar day the Offeror delays in the completion of any item of the contract after the required date of said completion.

### **16.0 AUTHORITY**

This IFB is issued under the provisions of the State Procurement Code (HRS Chapter 103D) and the State Procurement Office's applicable Directives, Circulars and administrative rules. All prospective Offerors are charged with the presumptive knowledge of all applicable legal authorities. Submission of a valid executed offer by any prospective Offeror shall constitute admission of such knowledge on the part of such prospective Offeror.

Any agreement arising out of this solicitation is subject to the approval of the Department of the Attorney General as to form, and to all further approvals, including the approval of the Governor, required by statute, regulation, rule, order, or other directive.

### **17.0 PROTEST**

A protest based upon the content of the solicitation shall be submitted in writing within five (5) working days after the aggrieved person knows or should have known of the facts giving rise thereto; provided further that the protest shall not be considered unless it is submitted in writing prior to the bid opening date.

A protest of an award or proposed award shall be submitted within five (5) working days after the posting of award of the contract. The notice of award letter(s), if any, resulting from this solicitation shall be posted on the ICSD bulletin board, 1151 Punchbowl Street, Room B-10, Honolulu, Hawaii 96813.

Any protest pursuant to §103D-701, HRS, and §3-126-3, Hawaii Administrative Rules (HAR), shall be submitted in writing to the Head of Purchasing Agency, ICSD, 1151 Punchbowl Street, Room B-10, Honolulu, Hawaii 96813.

#### **18.0 CANCELLATION OF SOLICITATIONS AND REJECTION OF OFFERS**

The solicitation may be cancelled or the offers may be rejected, in whole or in part, when in the best interest of the purchasing agency, as provided in §§3-122-95 through 3-122-97, HAR.

#### **19.0 CAMPAIGN CONTRIBUTIONS BY STATE AND COUNTY CONTRACTORS**

It has been determined that funds for this contract have been appropriated by a legislative body. Offerors are hereby notified of the applicability of §11-355, HRS which states that campaign contributions are prohibited from specified State or county government contractors during the term of the contract if the contractors are paid with funds appropriated by a legislative body. For more information, FAQs are available at the Campaign Spending Commission webpage (<http://hawaii.gov/campaign>). Information on spending issues should be directed to the Campaign Spending Commission's Executive Director or its General Counsel at (808) 586-0285.

# WAGE CERTIFICATE

(For Service Contracts)

Subject: IFB/RFP No.: \_\_\_\_\_

Title of IFB/RFP: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(To be completed by Offeror)

Pursuant to Section 103-55, Hawaii Revised Statutes (HRS), I hereby certify that if awarded the contract in excess of \$5,000, the services to be performed will be performed under the following conditions:

All applicable laws of the federal and state governments relating to workers' compensation, unemployment compensation, payment of wages, and safety will be fully complied with; and

The services to be rendered shall be performed by employees paid at wages or salaries not less than the wages paid to public officers and employees for similar work, with the exception of managerial, supervisory, and clerical personnel who are not covered by Section 103-55, HRS.

I understand that failure to comply with the above conditions during the period of the contract shall result in cancellation of the contract, unless such noncompliance is corrected within a reasonable period as determined by the procurement officer. Payment in the final settlement of the contract or the release of bonds, if applicable, or both shall not be made unless the procurement officer has determined that the noncompliance has been corrected; and

I further understand that all payments required by Federal and State laws to be made by employers for the benefit of their employees are to be paid in addition to the base wage required by section 103-55, HRS.

Offeror \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Appendix 1**  
**Record of Air Conditioning Service for State of Hawaii, ICS Division**  
**(Service Technician must fill in all fields)**

**Site Name:** \_\_\_\_\_ **Service Date:** \_\_\_\_\_  
**Equip Ser No:** \_\_\_\_\_ **Equip Make & Model:** \_\_\_\_\_

Room temperature (ambient air): \_\_\_\_\_  
Refrigerant leaks noted: \_\_\_\_\_  
Refrigerant Level: \_\_\_\_\_  
Type and quantity of refrigerant added: \_\_\_\_\_  
Refrigerant suction line temperature and pressure: \_\_\_\_\_  
Refrigerant discharge line temperature and pressure: \_\_\_\_\_  
Refrigerant moisture indicator status: \_\_\_\_\_

Compressor motor operating voltage and current: \_\_\_\_\_  
Compressor oil leaks noted: \_\_\_\_\_  
Compressor oil level: \_\_\_\_\_ Type and quantity of oil added: \_\_\_\_\_  
Lubricate condenser motor: \_\_\_\_\_ Lubricate condenser fan: \_\_\_\_\_  
Inspect belt condition and tension: \_\_\_\_\_  
List quantity and part number of belt(s) replaced: \_\_\_\_\_

Air filter status and condition: \_\_\_\_\_  
List quantity and part number of air filter(s) replaced: \_\_\_\_\_

Condenser coil condition (note if cleaned): \_\_\_\_\_  
Evaporator coil condition (note if cleaned): \_\_\_\_\_  
Evaporator coil cleaning accomplished: \_\_\_\_\_  
Exterior filter screen status and condition (note if cleaned): \_\_\_\_\_  
Status of condensate drain pans and lines (note if cleaned): \_\_\_\_\_

Blower wheel, housing, and motor condition: \_\_\_\_\_  
Note if blower wheel, housing and motors cleaned and/or lubricated: \_\_\_\_\_

Debris accumulation around exterior components (none, normal, excessive): \_\_\_\_\_  
List amount of debris removed (if any): \_\_\_\_\_  
Exterior cabinet and ductwork status and condition: \_\_\_\_\_  
List (if any) Repairs, patches, spot painting, weatherproofing repair, or hardware replacement needed and/or accomplished to exterior cabinet and ductwork: \_\_\_\_\_

Status and condition of electrical conduits, switches, and wiring: \_\_\_\_\_  
List electrical repairs needed or accomplished: \_\_\_\_\_

Describe additional documentation, if any, attached: \_\_\_\_\_

Spare parts inventory: \_\_\_\_\_

**Service Technician (print name):** \_\_\_\_\_ **Technician Initial:** \_\_\_\_\_

*Abbreviations used: N/A = not applicable NR = not required*

## GENERAL CONDITIONS

### Table of Contents

	<u>Page(s)</u>
1. Coordination of Services by the STATE.....	2
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.....	2
3. Personnel Requirements .....	3
4. Nondiscrimination .....	3
5. Conflicts of Interest .....	3
6. Subcontracts and Assignments .....	3
7. Indemnification and Defense.....	4
8. Cost of Litigation.....	4
9. Liquidated Damages .....	4
10. STATE'S Right of Offset.....	4
11. Disputes .....	4
12. Suspension of Contract.....	4
13. Termination for Default.....	5
14. Termination for Convenience .....	6
15. Claims Based on the Agency Procurement Officer's Actions or Omissions.....	8
16. Costs and Expenses .....	8
17. Payment Procedures; Final Payment; Tax Clearance .....	9
18. Federal Funds .....	9
19. Modifications of Contract.....	9
20. Change Order.....	10
21. Price Adjustment .....	11
22. Variation in Quantity for Definite Quantity Contracts .....	11
23. Changes in Cost-Reimbursement Contract.....	11
24. Confidentiality of Material .....	12
25. Publicity.....	12
26. Ownership Rights and Copyright .....	12
27. Liens and Warranties .....	12
28. Audit of Books and Records of the CONTRACTOR.....	13
29. Cost or Pricing Data .....	13
30. Audit of Cost or Pricing Data .....	13
31. Records Retention.....	13
32. Antitrust Claims.....	13
33. Patented Articles.....	13
34. Governing Law .....	14
35. Compliance with Laws .....	14
36. Conflict between General Conditions and Procurement Rules .....	14
37. Entire Contract.....	14
38. Severability .....	14
39. Waiver .....	14
40. Pollution Control .....	14
41. Campaign Contributions.....	14
42. Confidentiality of Personal Information.....	14

## GENERAL CONDITIONS

1. Coordination of Services by the STATE. The head of the purchasing agency ("HOPA") (which term includes the designee of the HOPA) shall coordinate the services to be provided by the CONTRACTOR in order to complete the performance required in the Contract. The CONTRACTOR shall maintain communications with HOPA at all stages of the CONTRACTOR'S work, and submit to HOPA for resolution any questions which may arise as to the performance of this Contract. "Purchasing agency" as used in these General Conditions means and includes any governmental body which is authorized under chapter 103D, HRS, or its implementing rules and procedures, or by way of delegation, to enter into contracts for the procurement of goods or services or both.
2. Relationship of Parties: Independent Contractor Status and Responsibilities, Including Tax Responsibilities.
  - a. In the performance of services required under this Contract, the CONTRACTOR is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the work and services required under this Contract; however, the STATE shall have a general right to inspect work in progress to determine whether, in the STATE'S opinion, the services are being performed by the CONTRACTOR in compliance with this Contract. Unless otherwise provided by special condition, it is understood that the STATE does not agree to use the CONTRACTOR exclusively, and that the CONTRACTOR is free to contract to provide services to other individuals or entities while under contract with the STATE.
  - b. The CONTRACTOR and the CONTRACTOR'S employees and agents are not by reason of this Contract, agents or employees of the State for any purpose, and the CONTRACTOR and the CONTRACTOR'S employees and agents shall not be entitled to claim or receive from the State any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to state employees.
  - c. The CONTRACTOR shall be responsible for the accuracy, completeness, and adequacy of the CONTRACTOR'S performance under this Contract. Furthermore, the CONTRACTOR intentionally, voluntarily, and knowingly assumes the sole and entire liability to the CONTRACTOR'S employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the CONTRACTOR, or the CONTRACTOR'S employees or agents in the course of their employment.
  - d. The CONTRACTOR shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the CONTRACTOR by reason of this Contract, including but not limited to (i) income taxes, (ii) employment related fees, assessments, and taxes, and (iii) general excise taxes. The CONTRACTOR also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform this Contract.
  - e. The CONTRACTOR shall obtain a general excise tax license from the Department of Taxation, State of Hawaii, in accordance with section 237-9, HRS, and shall comply with all requirements thereof. The CONTRACTOR shall obtain a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of the Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid and submit the same to the STATE prior to commencing any performance under this Contract. The CONTRACTOR shall also be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required for final payment under sections 103-53 and 103D-328, HRS, and paragraph 17 of these General Conditions.
  - f. The CONTRACTOR is responsible for securing all employee-related insurance coverage for the CONTRACTOR and the CONTRACTOR'S employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing the insurance coverage.



- g. The CONTRACTOR shall obtain a certificate of compliance issued by the Department of Labor and Industrial Relations, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
  - h. The CONTRACTOR shall obtain a certificate of good standing issued by the Department of Commerce and Consumer Affairs, State of Hawaii, in accordance with section 103D-310, HRS, and section 3-122-112, HAR, that is current within six months of the date of issuance.
  - i. In lieu of the above certificates from the Department of Taxation, Labor and Industrial Relations, and Commerce and Consumer Affairs, the CONTRACTOR may submit proof of compliance through the State Procurement Office's designated certification process.
3. Personnel Requirements.
- a. The CONTRACTOR shall secure, at the CONTRACTOR'S own expense, all personnel required to perform this Contract.
  - b. The CONTRACTOR shall ensure that the CONTRACTOR'S employees or agents are experienced and fully qualified to engage in the activities and perform the services required under this Contract, and that all applicable licensing and operating requirements imposed or required under federal, state, or county law, and all applicable accreditation and other standards of quality generally accepted in the field of the activities of such employees and agents are complied with and satisfied.
4. Nondiscrimination. No person performing work under this Contract, including any subcontractor, employee, or agent of the CONTRACTOR, shall engage in any discrimination that is prohibited by any applicable federal, state, or county law.
5. Conflicts of Interest. The CONTRACTOR represents that neither the CONTRACTOR, nor any employee or agent of the CONTRACTOR, presently has any interest, and promises that no such interest, direct or indirect, shall be acquired, that would or might conflict in any manner or degree with the CONTRACTOR'S performance under this Contract.
6. Subcontracts and Assignments. The CONTRACTOR shall not assign or subcontract any of the CONTRACTOR'S duties, obligations, or interests under this Contract and no such assignment or subcontract shall be effective unless (i) the CONTRACTOR obtains the prior written consent of the STATE, and (ii) the CONTRACTOR'S assignee or subcontractor submits to the STATE a tax clearance certificate from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR'S assignee or subcontractor have been paid. Additionally, no assignment by the CONTRACTOR of the CONTRACTOR'S right to compensation under this Contract shall be effective unless and until the assignment is approved by the Comptroller of the State of Hawaii, as provided in section 40-58, HRS.
- a. Recognition of a successor in interest. When in the best interest of the State, a successor in interest may be recognized in an assignment contract in which the STATE, the CONTRACTOR and the assignee or transferee (hereinafter referred to as the "Assignee") agree that:
    - (1) The Assignee assumes all of the CONTRACTOR'S obligations;
    - (2) The CONTRACTOR remains liable for all obligations under this Contract but waives all rights under this Contract as against the STATE; and
    - (3) The CONTRACTOR shall continue to furnish, and the Assignee shall also furnish, all required bonds.
  - b. Change of name. When the CONTRACTOR asks to change the name in which it holds this Contract with the STATE, the procurement officer of the purchasing agency (hereinafter referred to as the "Agency procurement officer") shall, upon receipt of a document acceptable or satisfactory to the

Agency procurement officer indicating such change of name (for example, an amendment to the CONTRACTOR'S articles of incorporation), enter into an amendment to this Contract with the CONTRACTOR to effect such a change of name. The amendment to this Contract changing the CONTRACTOR'S name shall specifically indicate that no other terms and conditions of this Contract are thereby changed.

- c. Reports. All assignment contracts and amendments to this Contract effecting changes of the CONTRACTOR'S name or novations hereunder shall be reported to the chief procurement officer (CPO) as defined in section 103D-203(a), HRS, within thirty days of the date that the assignment contract or amendment becomes effective.
  - d. Actions affecting more than one purchasing agency. Notwithstanding the provisions of subparagraphs 6a through 6c herein, when the CONTRACTOR holds contracts with more than one purchasing agency of the State, the assignment contracts and the novation and change of name amendments herein authorized shall be processed only through the CPO's office.
- 7. Indemnification and Defense. The CONTRACTOR shall defend, indemnify, and hold harmless the State of Hawaii, the contracting agency, and their officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys' fees, and all claims, suits, and demands therefore, arising out of or resulting from the acts or omissions of the CONTRACTOR or the CONTRACTOR'S employees, officers, agents, or subcontractors under this Contract. The provisions of this paragraph shall remain in full force and effect notwithstanding the expiration or early termination of this Contract.
  - 8. Cost of Litigation. In case the STATE shall, without any fault on its part, be made a party to any litigation commenced by or against the CONTRACTOR in connection with this Contract, the CONTRACTOR shall pay all costs and expenses incurred by or imposed on the STATE, including attorneys' fees.
  - 9. Liquidated Damages. When the CONTRACTOR is given notice of delay or nonperformance as specified in paragraph 13 (Termination for Default) and fails to cure in the time specified, it is agreed the CONTRACTOR shall pay to the STATE the amount, if any, set forth in this Contract per calendar day from the date set for cure until either (i) the STATE reasonably obtains similar goods or services, or both, if the CONTRACTOR is terminated for default, or (ii) until the CONTRACTOR provides the goods or services, or both, if the CONTRACTOR is not terminated for default. To the extent that the CONTRACTOR'S delay or nonperformance is excused under paragraph 13d (Excuse for Nonperformance or Delay Performance), liquidated damages shall not be assessable against the CONTRACTOR. The CONTRACTOR remains liable for damages caused other than by delay.
  - 10. STATE'S Right of Offset. The STATE may offset against any monies or other obligations the STATE owes to the CONTRACTOR under this Contract, any amounts owed to the State of Hawaii by the CONTRACTOR under this Contract or any other contracts, or pursuant to any law or other obligation owed to the State of Hawaii by the CONTRACTOR, including, without limitation, the payment of any taxes or levies of any kind or nature. The STATE will notify the CONTRACTOR in writing of any offset and the nature of such offset. For purposes of this paragraph, amounts owed to the State of Hawaii shall not include debts or obligations which have been liquidated, agreed to by the CONTRACTOR, and are covered by an installment payment or other settlement plan approved by the State of Hawaii, provided, however, that the CONTRACTOR shall be entitled to such exclusion only to the extent that the CONTRACTOR is current with, and not delinquent on, any payments or obligations owed to the State of Hawaii under such payment or other settlement plan.
  - 11. Disputes. Disputes shall be resolved in accordance with section 103D-703, HRS, and chapter 3-126, Hawaii Administrative Rules ("HAR"), as the same may be amended from time to time.
  - 12. Suspension of Contract. The STATE reserves the right at any time and for any reason to suspend this Contract for any reasonable period, upon written notice to the CONTRACTOR in accordance with the provisions herein.
    - a. Order to stop performance. The Agency procurement officer may, by written order to the CONTRACTOR, at any time, and without notice to any surety, require the CONTRACTOR to stop all or any part of the performance called for by this Contract. This order shall be for a specified

period not exceeding sixty (60) days after the order is delivered to the CONTRACTOR, unless the parties agree to any further period. Any such order shall be identified specifically as a stop performance order issued pursuant to this section. Stop performance orders shall include, as appropriate: (1) A clear description of the work to be suspended; (2) Instructions as to the issuance of further orders by the CONTRACTOR for material or services; (3) Guidance as to action to be taken on subcontracts; and (4) Other instructions and suggestions to the CONTRACTOR for minimizing costs. Upon receipt of such an order, the CONTRACTOR shall forthwith comply with its terms and suspend all performance under this Contract at the time stated, provided, however, the CONTRACTOR shall take all reasonable steps to minimize the occurrence of costs allocable to the performance covered by the order during the period of performance stoppage. Before the stop performance order expires, or within any further period to which the parties shall have agreed, the Agency procurement officer shall either:

- (1) Cancel the stop performance order; or
  - (2) Terminate the performance covered by such order as provided in the termination for default provision or the termination for convenience provision of this Contract.
- b. Cancellation or expiration of the order. If a stop performance order issued under this section is cancelled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the CONTRACTOR shall have the right to resume performance. An appropriate adjustment shall be made in the delivery schedule or contract price, or both, and the Contract shall be modified in writing accordingly, if:
- (1) The stop performance order results in an increase in the time required for, or in the CONTRACTOR'S cost properly allocable to, the performance of any part of this Contract; and
  - (2) The CONTRACTOR asserts a claim for such an adjustment within thirty (30) days after the end of the period of performance stoppage; provided that, if the Agency procurement officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this Contract.
- c. Termination of stopped performance. If a stop performance order is not cancelled and the performance covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop performance order shall be allowable by adjustment or otherwise.
- d. Adjustment of price. Any adjustment in contract price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

13. Termination for Default.

- a. Default. If the CONTRACTOR refuses or fails to perform any of the provisions of this Contract with such diligence as will ensure its completion within the time specified in this Contract, or any extension thereof, otherwise fails to timely satisfy the Contract provisions, or commits any other substantial breach of this Contract, the Agency procurement officer may notify the CONTRACTOR in writing of the delay or non-performance and if not cured in ten (10) days or any longer time specified in writing by the Agency procurement officer, such officer may terminate the CONTRACTOR'S right to proceed with the Contract or such part of the Contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency procurement officer may procure similar goods or services in a manner and upon the terms deemed appropriate by the Agency procurement officer. The CONTRACTOR shall continue performance of the Contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b. CONTRACTOR'S duties. Notwithstanding termination of the Contract and subject to any directions from the Agency procurement officer, the CONTRACTOR shall take timely, reasonable, and

necessary action to protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest.

- c. Compensation. Payment for completed goods and services delivered and accepted by the STATE shall be at the price set forth in the Contract. Payment for the protection and preservation of property shall be in an amount agreed upon by the CONTRACTOR and the Agency procurement officer. If the parties fail to agree, the Agency procurement officer shall set an amount subject to the CONTRACTOR'S rights under chapter 3-126, HAR. The STATE may withhold from amounts due the CONTRACTOR such sums as the Agency procurement officer deems to be necessary to protect the STATE against loss because of outstanding liens or claims and to reimburse the STATE for the excess costs expected to be incurred by the STATE in procuring similar goods and services.
  - d. Excuse for nonperformance or delayed performance. The CONTRACTOR shall not be in default by reason of any failure in performance of this Contract in accordance with its terms, including any failure by the CONTRACTOR to make progress in the prosecution of the performance hereunder which endangers such performance, if the CONTRACTOR has notified the Agency procurement officer within fifteen (15) days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of a public enemy; acts of the State and any other governmental body in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the CONTRACTOR shall not be deemed to be in default, unless the goods and services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the CONTRACTOR to meet the requirements of the Contract. Upon request of the CONTRACTOR, the Agency procurement officer shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one or more of the excusable causes, and that, but for the excusable cause, the CONTRACTOR'S progress and performance would have met the terms of the Contract, the delivery schedule shall be revised accordingly, subject to the rights of the STATE under this Contract. As used in this paragraph, the term "subcontractor" means subcontractor at any tier.
  - e. Erroneous termination for default. If, after notice of termination of the CONTRACTOR'S right to proceed under this paragraph, it is determined for any reason that the CONTRACTOR was not in default under this paragraph, or that the delay was excusable under the provisions of subparagraph 13d, "Excuse for nonperformance or delayed performance," the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to paragraph 14.
  - f. Additional rights and remedies. The rights and remedies provided in this paragraph are in addition to any other rights and remedies provided by law or under this Contract.
14. Termination for Convenience.
- a. Termination. The Agency procurement officer may, when the interests of the STATE so require, terminate this Contract in whole or in part, for the convenience of the STATE. The Agency procurement officer shall give written notice of the termination to the CONTRACTOR specifying the part of the Contract terminated and when termination becomes effective.
  - b. CONTRACTOR'S obligations. The CONTRACTOR shall incur no further obligations in connection with the terminated performance and on the date(s) set in the notice of termination the CONTRACTOR will stop performance to the extent specified. The CONTRACTOR shall also terminate outstanding orders and subcontracts as they relate to the terminated performance. The CONTRACTOR shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated performance subject to the STATE'S approval. The Agency procurement officer may direct the CONTRACTOR to assign the CONTRACTOR'S right, title, and interest under terminated orders or subcontracts to the STATE. The CONTRACTOR must still complete the performance not terminated by the notice of termination and may incur obligations as necessary to do so.

- c. Right to goods and work product. The Agency procurement officer may require the CONTRACTOR to transfer title and deliver to the STATE in the manner and to the extent directed by the Agency procurement officer:

- (1) Any completed goods or work product; and
- (2) The partially completed goods and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the CONTRACTOR has specifically produced or specially acquired for the performance of the terminated part of this Contract.

The CONTRACTOR shall, upon direction of the Agency procurement officer, protect and preserve property in the possession of the CONTRACTOR in which the STATE has an interest. If the Agency procurement officer does not exercise this right, the CONTRACTOR shall use best efforts to sell such goods and manufacturing materials. Use of this paragraph in no way implies that the STATE has breached the Contract by exercise of the termination for convenience provision.

- d. Compensation.

- (1) The CONTRACTOR shall submit a termination claim specifying the amounts due because of the termination for convenience together with the cost or pricing data, submitted to the extent required by chapter 3-122, HAR, bearing on such claim. If the CONTRACTOR fails to file a termination claim within one year from the effective date of termination, the Agency procurement officer may pay the CONTRACTOR, if at all, an amount set in accordance with subparagraph 14d(3) below.
- (2) The Agency procurement officer and the CONTRACTOR may agree to a settlement provided the CONTRACTOR has filed a termination claim supported by cost or pricing data submitted as required and that the settlement does not exceed the total Contract price plus settlement costs reduced by payments previously made by the STATE, the proceeds of any sales of goods and manufacturing materials under subparagraph 14c, and the Contract price of the performance not terminated.
- (3) Absent complete agreement under subparagraph 14d(2) the Agency procurement officer shall pay the CONTRACTOR the following amounts, provided payments agreed to under subparagraph 14d(2) shall not duplicate payments under this subparagraph for the following:
  - (A) Contract prices for goods or services accepted under the Contract;
  - (B) Costs incurred in preparing to perform and performing the terminated portion of the performance plus a fair and reasonable profit on such portion of the performance, such profit shall not include anticipatory profit or consequential damages, less amounts paid or to be paid for accepted goods or services; provided, however, that if it appears that the CONTRACTOR would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included and the amount of compensation shall be reduced to reflect the anticipated rate of loss;
  - (C) Costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to subparagraph 14b. These costs must not include costs paid in accordance with subparagraph 14d(3)(B);
  - (D) The reasonable settlement costs of the CONTRACTOR, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract. The total sum to be paid the CONTRACTOR under this subparagraph shall not exceed the

total Contract price plus the reasonable settlement costs of the CONTRACTOR reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under subparagraph 14d(2), and the contract price of performance not terminated.

- (4) Costs claimed, agreed to, or established under subparagraphs 14d(2) and 14d(3) shall be in accordance with Chapter 3-123 (Cost Principles) of the Procurement Rules.

15. Claims Based on the Agency Procurement Officer's Actions or Omissions.

- a. Changes in scope. If any action or omission on the part of the Agency procurement officer (which term includes the designee of such officer for purposes of this paragraph 15) requiring performance changes within the scope of the Contract constitutes the basis for a claim by the CONTRACTOR for additional compensation, damages, or an extension of time for completion, the CONTRACTOR shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion; provided:
- (1) Written notice required. The CONTRACTOR shall give written notice to the Agency procurement officer:
- (A) Prior to the commencement of the performance involved, if at that time the CONTRACTOR knows of the occurrence of such action or omission;
- (B) Within thirty (30) days after the CONTRACTOR knows of the occurrence of such action or omission, if the CONTRACTOR did not have such knowledge prior to the commencement of the performance; or
- (C) Within such further time as may be allowed by the Agency procurement officer in writing.
- (2) Notice content. This notice shall state that the CONTRACTOR regards the act or omission as a reason which may entitle the CONTRACTOR to additional compensation, damages, or an extension of time. The Agency procurement officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Agency procurement officer;
- (3) Basis must be explained. The notice required by subparagraph 15a(1) describes as clearly as practicable at the time the reasons why the CONTRACTOR believes that additional compensation, damages, or an extension of time may be remedies to which the CONTRACTOR is entitled; and
- (4) Claim must be justified. The CONTRACTOR must maintain and, upon request, make available to the Agency procurement officer within a reasonable time, detailed records to the extent practicable, and other documentation and evidence satisfactory to the STATE, justifying the claimed additional costs or an extension of time in connection with such changes.
- b. CONTRACTOR not excused. Nothing herein contained, however, shall excuse the CONTRACTOR from compliance with any rules or laws precluding any state officers and CONTRACTOR from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.
- c. Price adjustment. Any adjustment in the price made pursuant to this paragraph shall be determined in accordance with the price adjustment provision of this Contract.

16. Costs and Expenses. Any reimbursement due the CONTRACTOR for per diem and transportation expenses under this Contract shall be subject to chapter 3-123 (Cost Principles), HAR, and the following guidelines:

- a. Reimbursement for air transportation shall be for actual cost or coach class air fare, whichever is less.
  - b. Reimbursement for ground transportation costs shall not exceed the actual cost of renting an intermediate-sized vehicle.
  - c. Unless prior written approval of the HOPA is obtained, reimbursement for subsistence allowance (i.e., hotel and meals, etc.) shall not exceed the applicable daily authorized rates for inter-island or out-of-state travel that are set forth in the current Governor's Executive Order authorizing adjustments in salaries and benefits for state officers and employees in the executive branch who are excluded from collective bargaining coverage.
17. Payment Procedures; Final Payment; Tax Clearance.
- a. Original invoices required. All payments under this Contract shall be made only upon submission by the CONTRACTOR of original invoices specifying the amount due and certifying that services requested under the Contract have been performed by the CONTRACTOR according to the Contract.
  - b. Subject to available funds. Such payments are subject to availability of funds and allotment by the Director of Finance in accordance with chapter 37, HRS. Further, all payments shall be made in accordance with and subject to chapter 40, HRS.
  - c. Prompt payment.
    - (1) Any money, other than retainage, paid to the CONTRACTOR shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes; and
    - (2) Upon final payment to the CONTRACTOR, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract.
  - d. Final payment. Final payment under this Contract shall be subject to sections 103-53 and 103D-328, HRS, which require a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid. Further, in accordance with section 3-122-112, HAR, CONTRACTOR shall provide a certificate affirming that the CONTRACTOR has remained in compliance with all applicable laws as required by this section.
18. Federal Funds. If this Contract is payable in whole or in part from federal funds, CONTRACTOR agrees that, as to the portion of the compensation under this Contract to be payable from federal funds, the CONTRACTOR shall be paid only from such funds received from the federal government, and shall not be paid from any other funds. Failure of the STATE to receive anticipated federal funds shall not be considered a breach by the STATE or an excuse for nonperformance by the CONTRACTOR.
19. Modifications of Contract.
- a. In writing. Any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract permitted by this Contract shall be made by written amendment to this Contract, signed by the CONTRACTOR and the STATE, provided that change orders shall be made in accordance with paragraph 20 herein.
  - b. No oral modification. No oral modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract shall be permitted.

- c. Agency procurement officer. By written order, at any time, and without notice to any surety, the Agency procurement officer may unilaterally order of the CONTRACTOR:
    - (A) Changes in the work within the scope of the Contract; and
    - (B) Changes in the time of performance of the Contract that do not alter the scope of the Contract work.
  - d. Adjustments of price or time for performance. If any modification increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, an adjustment shall be made and this Contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined, where applicable, in accordance with the price adjustment clause of this Contract or as negotiated.
  - e. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if written modification of the Contract is not made prior to final payment under this Contract.
  - f. Claims not barred. In the absence of a written contract modification, nothing in this clause shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under this Contract or for a breach of contract.
  - g. Head of the purchasing agency approval. If this is a professional services contract awarded pursuant to section 103D-303 or 103D-304, HRS, any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract which increases the amount payable to the CONTRACTOR by at least \$25,000.00 and ten per cent (10%) or more of the initial contract price, must receive the prior approval of the head of the purchasing agency.
  - h. Tax clearance. The STATE may, at its discretion, require the CONTRACTOR to submit to the STATE, prior to the STATE'S approval of any modification, alteration, amendment, change, or extension of any term, provision, or condition of this Contract, a tax clearance from the Director of Taxation, State of Hawaii, and the Internal Revenue Service, U.S. Department of Treasury, showing that all delinquent taxes, if any, levied or accrued under state law and the Internal Revenue Code of 1986, as amended, against the CONTRACTOR have been paid.
  - i. Sole source contracts. Amendments to sole source contracts that would change the original scope of the Contract may only be made with the approval of the CPO. Annual renewal of a sole source contract for services should not be submitted as an amendment.
20. Change Order. The Agency procurement officer may, by a written order signed only by the STATE, at any time, and without notice to any surety, and subject to all appropriate adjustments, make changes within the general scope of this Contract in any one or more of the following:
- (1) Drawings, designs, or specifications, if the goods or services to be furnished are to be specially provided to the STATE in accordance therewith;
  - (2) Method of delivery; or
  - (3) Place of delivery.
- a. Adjustments of price or time for performance. If any change order increases or decreases the CONTRACTOR'S cost of, or the time required for, performance of any part of the work under this Contract, whether or not changed by the order, an adjustment shall be made and the Contract modified in writing accordingly. Any adjustment in the Contract price made pursuant to this provision shall be determined in accordance with the price adjustment provision of this Contract. Failure of the parties to agree to an adjustment shall not excuse the CONTRACTOR from proceeding with the Contract as changed, provided that the Agency procurement officer promptly and duly makes the provisional adjustments in payment or time for performance as may be reasonable. By



proceeding with the work, the CONTRACTOR shall not be deemed to have prejudiced any claim for additional compensation, or any extension of time for completion.

- b. Time period for claim. Within ten (10) days after receipt of a written change order under subparagraph 20a, unless the period is extended by the Agency procurement officer in writing, the CONTRACTOR shall respond with a claim for an adjustment. The requirement for a timely written response by CONTRACTOR cannot be waived and shall be a condition precedent to the assertion of a claim.
- c. Claim barred after final payment. No claim by the CONTRACTOR for an adjustment hereunder shall be allowed if a written response is not given prior to final payment under this Contract.
- d. Other claims not barred. In the absence of a change order, nothing in this paragraph 20 shall be deemed to restrict the CONTRACTOR'S right to pursue a claim under the Contract or for breach of contract.

21. Price Adjustment.

- a. Price adjustment. Any adjustment in the contract price pursuant to a provision in this Contract shall be made in one or more of the following ways:
  - (1) By agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;
  - (2) By unit prices specified in the Contract or subsequently agreed upon;
  - (3) By the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as specified in the Contract or subsequently agreed upon;
  - (4) In such other manner as the parties may mutually agree; or
  - (5) In the absence of agreement between the parties, by a unilateral determination by the Agency procurement officer of the costs attributable to the event or situation covered by the provision, plus appropriate profit or fee, all as computed by the Agency procurement officer in accordance with generally accepted accounting principles and applicable sections of chapters 3-123 and 3-126, HAR.
- b. Submission of cost or pricing data. The CONTRACTOR shall provide cost or pricing data for any price adjustments subject to the provisions of chapter 3-122, HAR.

22. Variation in Quantity for Definite Quantity Contracts. Upon the agreement of the STATE and the CONTRACTOR, the quantity of goods or services, or both, if a definite quantity is specified in this Contract, may be increased by a maximum of ten per cent (10%); provided the unit prices will remain the same except for any price adjustments otherwise applicable; and the Agency procurement officer makes a written determination that such an increase will either be more economical than awarding another contract or that it would not be practical to award another contract.

23. Changes in Cost-Reimbursement Contract. If this Contract is a cost-reimbursement contract, the following provisions shall apply:

- a. The Agency procurement officer may at any time by written order, and without notice to the sureties, if any, make changes within the general scope of the Contract in any one or more of the following:
  - (1) Description of performance (Attachment 1);
  - (2) Time of performance (i.e., hours of the day, days of the week, etc.);
  - (3) Place of performance of services;

- (4) Drawings, designs, or specifications when the supplies to be furnished are to be specially manufactured for the STATE in accordance with the drawings, designs, or specifications;
    - (5) Method of shipment or packing of supplies; or
    - (6) Place of delivery.
  - b. If any change causes an increase or decrease in the estimated cost of, or the time required for performance of, any part of the performance under this Contract, whether or not changed by the order, or otherwise affects any other terms and conditions of this Contract, the Agency procurement officer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the Contract accordingly.
  - c. The CONTRACTOR must assert the CONTRACTOR'S rights to an adjustment under this provision within thirty (30) days from the day of receipt of the written order. However, if the Agency procurement officer decides that the facts justify it, the Agency procurement officer may receive and act upon a proposal submitted before final payment under the Contract.
  - d. Failure to agree to any adjustment shall be a dispute under paragraph 11 of this Contract. However, nothing in this provision shall excuse the CONTRACTOR from proceeding with the Contract as changed.
  - e. Notwithstanding the terms and conditions of subparagraphs 23a and 23b, the estimated cost of this Contract and, if this Contract is incrementally funded, the funds allotted for the performance of this Contract, shall not be increased or considered to be increased except by specific written modification of the Contract indicating the new contract estimated cost and, if this contract is incrementally funded, the new amount allotted to the contract.
24. Confidentiality of Material.
- a. All material given to or made available to the CONTRACTOR by virtue of this Contract, which is identified as proprietary or confidential information, will be safeguarded by the CONTRACTOR and shall not be disclosed to any individual or organization without the prior written approval of the STATE.
  - b. All information, data, or other material provided by the CONTRACTOR to the STATE shall be subject to the Uniform Information Practices Act, chapter 92F, HRS.
25. Publicity. The CONTRACTOR shall not refer to the STATE, or any office, agency, or officer thereof, or any state employee, including the HOPA, the CPO, the Agency procurement officer, or to the services or goods, or both, provided under this Contract, in any of the CONTRACTOR'S brochures, advertisements, or other publicity of the CONTRACTOR. All media contacts with the CONTRACTOR about the subject matter of this Contract shall be referred to the Agency procurement officer.
26. Ownership Rights and Copyright. The STATE shall have complete ownership of all material, both finished and unfinished, which is developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract, and all such material shall be considered "works made for hire." All such material shall be delivered to the STATE upon expiration or termination of this Contract. The STATE, in its sole discretion, shall have the exclusive right to copyright any product, concept, or material developed, prepared, assembled, or conceived by the CONTRACTOR pursuant to this Contract.
27. Liens and Warranties. Goods provided under this Contract shall be provided free of all liens and provided together with all applicable warranties, or with the warranties described in the Contract documents, whichever are greater.

28. Audit of Books and Records of the CONTRACTOR. The STATE may, at reasonable times and places, audit the books and records of the CONTRACTOR, prospective contractor, subcontractor, or prospective subcontractor which are related to:

- a. The cost or pricing data, and
- b. A state contract, including subcontracts, other than a firm fixed-price contract.

29. Cost or Pricing Data. Cost or pricing data must be submitted to the Agency procurement officer and timely certified as accurate for contracts over \$100,000 unless the contract is for a multiple-term or as otherwise specified by the Agency procurement officer. Unless otherwise required by the Agency procurement officer, cost or pricing data submission is not required for contracts awarded pursuant to competitive sealed bid procedures.

If certified cost or pricing data are subsequently found to have been inaccurate, incomplete, or noncurrent as of the date stated in the certificate, the STATE is entitled to an adjustment of the contract price, including profit or fee, to exclude any significant sum by which the price, including profit or fee, was increased because of the defective data. It is presumed that overstated cost or pricing data increased the contract price in the amount of the defect plus related overhead and profit or fee. Therefore, unless there is a clear indication that the defective data was not used or relied upon, the price will be reduced in such amount.

30. Audit of Cost or Pricing Data. When cost or pricing principles are applicable, the STATE may require an audit of cost or pricing data.

31. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.

32. Antitrust Claims. The STATE and the CONTRACTOR recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the purchaser. Therefore, the CONTRACTOR hereby assigns to STATE any and all claims for overcharges as to goods and materials purchased in connection with this Contract, except as to overcharges which result from violations commencing after the price is established under this Contract and which are not passed on to the STATE under an escalation clause.

33. Patented Articles. The CONTRACTOR shall defend, indemnify, and hold harmless the STATE, and its officers, employees, and agents from and against all liability, loss, damage, cost, and expense, including all attorneys fees, and all claims, suits, and demands arising out of or resulting from any claims, demands, or actions by the patent holder for infringement or other improper or unauthorized use of any patented article, patented process, or patented appliance in connection with this Contract. The CONTRACTOR shall be solely responsible for correcting or curing to the satisfaction of the STATE any such infringement or improper or unauthorized use, including, without limitation: (a) furnishing at no cost to the STATE a substitute article, process, or appliance acceptable to the STATE, (b) paying royalties or other required payments to the patent holder, (c) obtaining proper authorizations or releases from the patent holder, and (d) furnishing such security to or making such arrangements with the patent holder as may be necessary to correct or cure any such infringement or improper or unauthorized use.

34. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract, shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Honolulu, Hawaii.
35. Compliance with Laws. The CONTRACTOR shall comply with all federal, state, and county laws, ordinances, codes, rules, and regulations, as the same may be amended from time to time, that in any way affect the CONTRACTOR'S performance of this Contract.
36. Conflict Between General Conditions and Procurement Rules. In the event of a conflict between the General Conditions and the procurement rules, the procurement rules in effect on the date this Contract became effective shall control and are hereby incorporated by reference.
37. Entire Contract. This Contract sets forth all of the agreements, conditions, understandings, promises, warranties, and representations between the STATE and the CONTRACTOR relative to this Contract. This Contract supersedes all prior agreements, conditions, understandings, promises, warranties, and representations, which shall have no further force or effect. There are no agreements, conditions, understandings, promises, warranties, or representations, oral or written, express or implied, between the STATE and the CONTRACTOR other than as set forth or as referred to herein.
38. Severability. In the event that any provision of this Contract is declared invalid or unenforceable by a court, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining terms of this Contract.
39. Waiver. The failure of the STATE to insist upon the strict compliance with any term, provision, or condition of this Contract shall not constitute or be deemed to constitute a waiver or relinquishment of the STATE'S right to enforce the same in accordance with this Contract. The fact that the STATE specifically refers to one provision of the procurement rules or one section of the Hawaii Revised Statutes, and does not include other provisions or statutory sections in this Contract shall not constitute a waiver or relinquishment of the STATE'S rights or the CONTRACTOR'S obligations under the procurement rules or statutes.
40. Pollution Control. If during the performance of this Contract, the CONTRACTOR encounters a "release" or a "threatened release" of a reportable quantity of a "hazardous substance," "pollutant," or "contaminant" as those terms are defined in section 128D-1, HRS, the CONTRACTOR shall immediately notify the STATE and all other appropriate state, county, or federal agencies as required by law. The Contractor shall take all necessary actions, including stopping work, to avoid causing, contributing to, or making worse a release of a hazardous substance, pollutant, or contaminant, and shall promptly obey any orders the Environmental Protection Agency or the state Department of Health issues in response to the release. In the event there is an ensuing cease-work period, and the STATE determines that this Contract requires an adjustment of the time for performance, the Contract shall be modified in writing accordingly.
41. Campaign Contributions. The CONTRACTOR is hereby notified of the applicability of 11-355, HRS, which states that campaign contributions are prohibited from specified state or county government contractors during the terms of their contracts if the contractors are paid with funds appropriated by a legislative body.
42. Confidentiality of Personal Information.
- a. Definitions.
- "Personal information" means an individual's first name or first initial and last name in combination with any one or more of the following data elements, when either name or data elements are not encrypted:
- (1) Social security number;
  - (2) Driver's license number or Hawaii identification card number; or

- (3) Account number, credit or debit card number, access code, or password that would permit access to an individual's financial information.

Personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

"Technological safeguards" means the technology and the policy and procedures for use of the technology to protect and control access to personal information.

b. Confidentiality of Material.

- (1) All material given to or made available to the CONTRACTOR by the STATE by virtue of this Contract which is identified as personal information, shall be safeguarded by the CONTRACTOR and shall not be disclosed without the prior written approval of the STATE.
- (2) CONTRACTOR agrees not to retain, use, or disclose personal information for any purpose other than as permitted or required by this Contract.
- (3) CONTRACTOR agrees to implement appropriate "technological safeguards" that are acceptable to the STATE to reduce the risk of unauthorized access to personal information.
- (4) CONTRACTOR shall report to the STATE in a prompt and complete manner any security breaches involving personal information.
- (5) CONTRACTOR agrees to mitigate, to the extent practicable, any harmful effect that is known to CONTRACTOR because of a use or disclosure of personal information by CONTRACTOR in violation of the requirements of this paragraph.
- (6) CONTRACTOR shall complete and retain a log of all disclosures made of personal information received from the STATE, or personal information created or received by CONTRACTOR on behalf of the STATE.

c. Security Awareness Training and Confidentiality Agreements.

- (1) CONTRACTOR certifies that all of its employees who will have access to the personal information have completed training on security awareness topics relating to protecting personal information.
- (2) CONTRACTOR certifies that confidentiality agreements have been signed by all of its employees who will have access to the personal information acknowledging that:
  - (A) The personal information collected, used, or maintained by the CONTRACTOR will be treated as confidential;
  - (B) Access to the personal information will be allowed only as necessary to perform the Contract; and
  - (C) Use of the personal information will be restricted to uses consistent with the services subject to this Contract.

d. Termination for Cause. In addition to any other remedies provided for by this Contract, if the STATE learns of a material breach by CONTRACTOR of this paragraph by CONTRACTOR, the STATE may at its sole discretion:

- (1) Provide an opportunity for the CONTRACTOR to cure the breach or end the violation; or
- (2) Immediately terminate this Contract.

In either instance, the CONTRACTOR and the STATE shall follow chapter 487N, HRS, with respect to notification of a security breach of personal information.

e. Records Retention.

- (1) Upon any termination of this Contract or as otherwise required by applicable law, CONTRACTOR shall, pursuant to chapter 487R, HRS, destroy all copies (paper or electronic form) of personal information received from the STATE.
- (2) The CONTRACTOR and any subcontractors shall maintain the files, books, and records that relate to the Contract, including any personal information created or received by the CONTRACTOR on behalf of the STATE, and any cost or pricing data, for at least three (3) years after the date of final payment under the Contract. The personal information shall continue to be confidential and shall only be disclosed as permitted or required by law. After the three (3) year, or longer retention period as required by law has ended, the files, books, and records that contain personal information shall be destroyed pursuant to chapter 487R, HRS or returned to the STATE at the request of the STATE.